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International Court of Justice

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H0005-0002

Official transcript of the International Military Tribunal, in the matter of: The United States of America, The French Republic, The United Kingdom of Great Britain and Northern Ireland, and the Union of Soviet Socialist Republics against Hermann Wilhelm Goering, et al, Defendants, sitting at Nuremberg, Germany, on 22 November, 1945, 1400-1700, Lord Justice Lawrence, presiding.

COLONEL STOREY: If the Tribunal please, Major Frank Wallace will now present the briefs and documents supporting the briefs in behalf of the phase of the case known as the common plan or conspiracy, up through 1939.

Major Wallace.

MAJOR WALLACE: Mr. President, members of the Tribunal:

It will be my purpose to establish most of the material allegations of the Indictment running from Paragraph IV on page 3, to subparagraph E on page 6.

The subjects involved are:

The aims of the Nazi Party.

Their doctrinal techniques.

Their rise to power; and

The consolidation of control over Germany between 1933 and 1939 in preparation for aggressive war.

This story has already been sketched by the American Chief Prosecutor. Moreover, it is history, beyond challenge by the defendants. For the most part, we rely upon the Tribunal to take judicial notice of it. What we offer is merely illustrative material--including statements by the defendants and other Nazi leaders--laws, decrees, and the like. We do not need to rest upon

H0005-0003

captured documents or other special sources, although some have been used.

For the convenience of the Court and defense counsel, the illustrative material has been put together in document books, and the arguments derived from them have been set out in trial briefs.

I intend only to comment briefly on some of the materials and to summarize the main lines of the briefs.

What is the charge in Count One?

The charge in Count One is that the defendants with divers other persons, participated in the formulation or execution of a common plan or conspiracy to commit, or which involved the commission of crimes against humanity (both within and without Germany), war crimes, and crimes against peace.

The charge is, further, that the instrument of cohesion among the defendants, as well as an instrument for the execution of the purposes of the conspiracy, was the Nazi Party, of which each defendant was a member or to which he became an adherent.

The scope of the proof which I shall offer is:

First, that the Nazi Party set for itself certain aims and objectives, involving basically the acquisition of Lebensraum, or living space, for all "racial" Germans.

Second, that it was committed to the use of any methods, whether or not legal, in attaining these objectives and that it did in fact use illegal methods.

Third, that it put forward and disseminated various lines of propaganda; and used various propaganda techniques to assist it in its unprincipled rise to power.

Fourth, that it ultimately did seize all governmental power in Germany.

Fifth, that it used this power to complete the

H0005-0004

political conquest of the State, to crush all opposition, and to prepare the nation psychologically and otherwise for the foreign aggression upon which it was bent from the outset.

In general, we undertake to outline, so far as relevant to the charge, what happened in Germany during the pre-war period, leaving it to others to carry the story and proof through the war years.

The aims of this conspiracy were open and notorious. It was far different from any other conspiracy ever unfolded before a court of justice, not only because of the gigantic number of people involved, the period of time covered, the magnitude and audacity of it, but because, unlike other criminal conspirators, these conspirators often boastfully proclaimed to the world what they planned to do, before they did it.

H0005 - 0005

As an illustration, Hitler, in his speech of 30 January 1941, said:

"My program was to abolish the Versailles Treaty. It is futile nonsense for the rest of the world to pretend today that I did not reveal this program until 1933 or 1935 or 1937... Instead of listening to the foolish chatter of emigres, these gentlemen would have been wiser to read what I have written thousands of times. No human being has declared or recorded what he wanted more than I. Again and again I wrote these words, 'The abolition of the Treaty of Versailles'".

First, a brief reference to the history of the Nazi Party.

The Court will no doubt recollect that the National Socialist Party had its origin in the German Labor Party, which was founded on 5 January 1919, in Munich. It was this organization which Hitler joined as seventh member on 12 September 1919. At a meeting of the German Labor Party held on 24 February 1920, Hitler announced to the world that the "25 Theses" that subsequently became known as the "unalterable" program of the National Socialist German Workers Party.

A few days later, on 4 March 1920, the name of the German Labor Party was changed to the National Socialist German Workers Party, frequently referred to as the NSDAP, or Nazi Party. It is under that name that the Nazi Party continued to exist until its dissolution after the collapse and unconditional surrender of Germany in 1945.

The disagreements and intrigues within the party between Hitler's followers and those who opposed him were finally resolved on 29 July 1921, when Hitler became "First Chairman" and was invested with extraordinary powers. Hitler immediately reorganized the Party and imposed on it the "Fuehrerprinzip", the leadership principle - of which you will hear more later. Thereafter Hitler, the Fuehrer, determined all questions and made all decisions for the Party.

The main objectives of the Party which are fastened upon the defendants and their co-conspirators by reason of their membership in, or knowing adherence to the Party, were openly and notoriously avowed.

H0005-0006

They were set out in the Party Program of 1920, were publicized in Mein Kampf, and in Nazi literature generally, and were obvious from the continuous pattern of public action of the Party from the date of its founding.

Two consequences, important in the trial of this case, derive from the fact that the major objectives of the Party were publicly and repeatedly proclaimed:

First, the Court may take judicial notice of them.

Second, the defendants and their co-conspirators cannot be heard to deny them or to assert that they were ignorant of them.

The prosecution offers proof of the major objectives of the Party - and hence of the objectives of the conspiracy - only to refresh or implement judicial recollection. The main objectives were:

First, to overthrow the Treaty of Versailles and its restrictions on military armament and activity in Germany.

Second, to acquire territories lost by Germany in World War I.

Third, to acquire other territories inhabited by so-called "racial Germans"; and

Fourth, to acquire still further territories said to be needed as living space by the racial Germans so incorporated - all at the expense of neighboring and other countries.

In speaking of the first aim, Hitler made an admission which applied equally to the other aims, namely, that he had stated and written a thousand times or more that he demanded the abolition of the Versailles Treaty.

These aims are fully documented in the evidence offered by the prosecution on this phase of the case, and it is not my purpose at this time to recite to the Court numerous declarations made by the defendants and others with respect to these aims.

Moreover, these conspirators again and again

publicly announced to the still unbelieving world that they proposed to accomplish these objectives by any means found opportune, including illegal means and resort to threat of force, force, and aggressive war. The use of force was distinctly sanctioned, in fact guaranteed, by official statements and directives of the conspirators which made activism and aggressiveness a political quality obligatory for Party members. As Hitler stated in Mein Kampf:

"What we needed and still need are not a hundred or two hundred reckless conspirators, but a hundred thousand and a second hundred thousand fighters for our philosophy of life."

In 1929 Hitler stated:

"We confess further that we will tear anyone to pieces who would dare to hinder us in this undertaking. Our rights will be protected only when the German Reich is again supported by the point of the German dagger."

Hitler, in 1934, in addressing the Party Congress at Nurnberg, stated the duties of Party members in the following terms:

"Only a part of the people will consist of really active fighters. It is they who were fighters of the National Socialist struggle. It is they who were fighters of the National Socialist revolution. Of them more is demanded than of the millions among the rest of the population. For them it is not sufficient to confess, 'I believe', but to swear, 'I fight.'"

In proof of the fact that the Party was committed to the use of any means whether or not legal or honorable, it is only necessary to remind the Court that the Party virtually opened its public career by staging a revolution--the Munich Putsch of 1923.

Now let us consider for a moment the doctrinal techniques of the Common Plan of Conspiracy which are alleged in the Indictment.

To incite others to join in the common plan or conspiracy and as a means of securing for the Nazi conspirators the highest degree of control over the German community, they disseminated and exploited certain doctrines.

H0005-0007

H0005-0008

The first of these was the master race doctrine--that persons of so-called German blood were a master race. This doctrine of racial supremacy was incorporated as Point 4 in the Party Program, which provided: "Only a member of the race can be a citizen. A member of the race can only be one who is of German blood without consideration of confession. Consequently, no Jew can be a member of the race."

They outlined this master race doctrine as a new religion--the faith of the blood--superseding in individual allegiance all other religions and institutions. The defendant Rosenberg and the defendant Streicher were particularly prominent in disseminating this doctrine. Much of the evidence to be offered in this case will illustrate the Nazi conspirators' continued espousal and exploitation of this master race doctrine.

This doctrine had an eliminatory purpose--call anything "non-German" or Jewish, and you have a clear right, indeed, a duty, to cast it out. In fact, purges did not stop at so-called racial lines, but went far beyond. Of course, the deeper psychological meaning of the "master race" is the doctrine of the scapegoat.

H0005 - 0009

The second important doctrine which permeates the entire conspiracy and is one of the important links in establishing the guilt of each of these defendants is the doctrine or concept of the Führerprinzip or leadership principle.

This doctrine permeated the Nazi Party and all its formations and allied organizations and eventually permeated the Nazi State and all institutions and is of such importance that I would like to dwell upon it for a few moments and attempt to explain the concepts which it embraces.

The "Führerprinzip" embodies two major political concepts:

1. Authoritarianism.

2. Totalitarianism.

Authoritarianism implies the following: All authority is concentrated at the top and is vested in one person only, the Führer. It further implies that the Führer is infallible as well as omnipotent. The Party Manual states:

"Under the Commandments of the National Socialists:

"The Führer is always right . . . "

Also, there are no legal or political limits to the authority of the Führer. Whatever authority is wielded by the others is derived from the authority of the Führer. Moreover, within the sphere of jurisdiction allotted to him, each appointee of the Führer manipulates his powers in equally unrestricted fashion, subordinate only to the command of those above him. Each appointee owes unconditional obedience to the Führer and to the superior party leaders in the hierarchy.

Each Political Leader was sworn in yearly. According

H0005-0010

to the Party Manual, which will be introduced in evidence, the wording of the oath was as follows:

"I pledge eternal allegiance to Adolf Hitler.
I pledge unconditional obedience to him and
the Führers appointed by him."

The Party Manual also provides that,

"The Political Leader is inseparably tied to the ideology and the organization of the NSDAP. His oath only ends with his death or with his expulsion from the National Socialist Community."

As the defendant Hans Frank stated in one of his publications:

"Leadership principle in the administration means: always to replace decision by majority, by decision on the part of a specific person with clear jurisdiction and with sole responsibility to those above, and to entrust to his authority the realization of the decision to those below."

And finally the concept of Authoritarianism contained in the Führer Prinzip implies: The authority of the Führer extends into all spheres of public and private life.

The second main concept of the Führer Prinzip is Totalitarianism which implies the following: The authority of the Führer, his appointees and, through them, of the Party as a whole, extends into all spheres of public and private life.

The Party dominates the State.

The Party dominates the armed forces.

The Party dominates all individuals within the State.

H0005-0011

The Party eliminates all institutions, groups and individuals unwilling to accept the leadership of the Führer.

As the Party manual states:

"Only those organizations can lay claim to the institution of the leadership principle and to the National Socialist meaning of the State and people in the National Socialist meaning of the term, which...have been integrated into, supervised and formed by the Party and which, in the future, will continue to do so."

The Manual goes on to state:

"All others which conduct an organizational life of their own are to be rejected as outsiders and will either have to adjust themselves or disappear from public life."

Illustrations of the Führer prinzip and its application to the Party, the state and allied organizations are fully set forth in the brief and accompanying documents, which will be offered in evidence.

The third doctrine or technique employed by the Nazi conspirators to make the German people amenable to their will and aims was the doctrine that war was a noble and necessary activity of Germans. The purpose of this doctrine was well expressed by Hitler in Mein Kampf when he said:

"The question of restoration of German power is not a question of how to fabricate arms, but a question of how to create the spirit which makes a people capable of bearing arms. If this spirit dominates a people, the will finds a thousand ways to secure weapons."

Hitler's writings and public utterances are replete with declarations rationalizing the use of force and glorifying war. The following is typical, when he said:

"Always before God and the world, the stronger has the right to carry through his will. History proves it! He who has no might has no use for might."

As will be shown in subsequent proof, this doctrine of the glorification of war played a major part in the education of the German youth of the pre-war era.

H0005-0012

I now offer the documents - which establish the aims of the Nazi Party and their Doctrinal techniques. I also have for the assistance of the court and defense counsel, briefs which make the argument part of these documents.

I now direct your attention to the rise to power of the Nazi Party.

The First attempt to acquire political control was by force. In fact at no time during this period did the Party participate in any electoral campaigns, nor did it see fit to collaborate with other political groups and parties.

THE PRESIDENT: Major Wallace, have you got copies of these for defendants' counsel?

MAJOR WALLACE: In Room 54.

THE PRESIDENT: Well, they will be wanting to follow them now.

MAJOR WALLACE: Mr. President, my remarks, with which I am proceeding, will cover an entirely different subject that in the briefs before you. The briefs cover what I have already said, Sir.

THE PRESIDENT: Are you depositing a copy of these briefs for each of the defendant's counsel?

MAJOR WALLACE: I am informed, if your Honor pleases, that the same procedure has been followed with respect to these briefs as has been followed with respect to the documents, namely, a total of six has been made available to the defendants in Room 54.

THE PRESIDENT: What do you say?

MAJOR WALLACE: A total of six copies has been made available to the defendants in Room 54. If your Honor does not deem that enough, I feel sure that I can give assurance, on behalf of the Chief Prosecutor of the United States, that before the close of the day an ample supply of copies will be there for use.

THE PRESIDENT: The Tribunal thinks that the defense counsel should each have a copy of these briefs.

MAJOR WALLACE: That will be done, Sir.

THE PRESIDENT: Members of the defense counsel: you will understand that I have directed on behalf of the Tribunal that you should each have a copy of this brief.

H0005-0013

DR. RUDOLF DIX: We are very grateful for this order, but none of us has seen any of these documents. I may assume that these documents will be given to the defense in German. I may assume, I hope that these documents will be given to the defense in a German translation.

THE PRESIDENT: Yes.

The 9th of November 1923 warranted the end as well as the beginning of an era. On the 9th of November occurred the historical fact popularly known as the Hitler Putsch. During the night of November 8th to 9th Hitler, supported by the SA under the defendant Göring, at a meeting in Munich, proclaimed the National Revolution and his dictatorship of Germany, and announced himself as the Chancellor of the Reich. On the following morning the duly constituted authorities of the State, after some bloodshed in Munich, put an end to this illegal attempt to seize the government. Hitler and some of his followers were arrested and tried, and sentenced to imprisonment.

The new era in the National Socialist movement commences with Hitler's parole from prison in December 1924. With the return of its leader, the Party took up its fight for power once again. The prohibitions invoked by the government against the Nazi Party at the time of the Munich Putsch gradually were removed and Hitler, the Führer of the Party, formally announced that in seeking to achieve its aims to overthrow the Weimar Government, the NSDAP would resort only to "legal" means. A valid inference from these facts may well be suggested, viz. that the Party's resort to "legality" was in reality only a condition on which it was permitted to carry on its activities in a democratically organized State. But consistent with its professed resort to "legality" the Party now participated in the popular elections of the German people and generally took part in political activity. At the same time it engaged in feverish activity to expand the party membership, its organizational structure and activities. The SA and the SS recruited numerous new members. Hitler's "Mein Kampf" appeared in 1925. The Hitler Youth was founded.

H0005-0014

Newspapers were published, among them the "Völkischer Beobachter" of which the defendant Rosenberg was editor, and "Der Angriff" published by Göbbels, later the notorious Minister of Propaganda and Public Enlightenment. Meetings of other political parties were interfered with and broken up, and there was much street brawling.

The results of the Party's attempt to win political power made little headway for a number of years despite the strenuous efforts exerted to that end. In 30 elections in which the National Socialists participated from 1925 to 1930 for seats in the Reichstag and in the Landtage

H0005-0015

or Provincial Diets of the various German states, the Nazis received mandates in but 16 and gained no seats at all in 14 elections. The National Socialist vote in the 1927 elections did not exceed 4% of the total number of votes cast. The year 1939 marks the first modest success at the polls in the State of Thuringia. The Nazis received over 11% of the pupular vote, elected 6 representatives out of a total of 53 to the Diet, and the defendant Frick became Minister of Interior of Thuringia, the first National Socialist chosen to ministerial rank.

With such encouragement and proof of the success of its methods to win support, the Nazi Party redoubled its traditional efforts (by means of terror and coercion). These met with some rebuff on the part of the Reich and various German States. Prussia required its civil servants to terminate their membership in the Party and forbade the wearing of brown shirts, which were worn by the SA of the Party. Baden likewise ruled against the wearing of brown shirts, and Bavaria prohibited the wearing of uniforms by political organizations. New National Socialist writings appeared in Germany. The new "National Socialist Monthly" appeared under the editorship of the defendant Rosenberg, and shortly thereafter, in June 1930, Rosenberg's "Myth of the 20th Century" was published.

Against this background - President von Hindenburg having meanwhile dissolved the Reichstag when Chancellor Bruaming failed to obtain a vote of confidence - Germany moved to the polls once more on the 14th September 1930. By this election their representation in the Reichstag was increased from 12 seats to 107 seats out of a total of 577.

The new Reichstag met and 107 Nazis marched into the session dressed in brown shirts. Rowdy opposition at once developed intent on causing the fall of the Bruaming Cabinet. Taking advantage of the issues caused by the then previling general economic distress, the Nazis sought a vote of non-confidence and dissolution of the Reichstag. Failing in these obstructionary tactics, the Nazis walked out of the Reichstag.

H0005-0016

With 107 members in the Reichstag, the Nazi propaganda increased in violence. The obstruction by the Nazi deputies of the Reichstag continued with the same pattern of conduct. Repeatedly motions of non-confidence in Brüning and for dissolution of the Reichstag were offered and were lost. And after every failure the Nazi members stalked out of the chamber nnew.

By spring of 1932 Brüning's position became untenable and the defendant von Papen was appointed Chancellor. The Reichstag was dissolved and new elections held in which the Nazis increased the number of their seats to 230 out of a total of 608. The Nazi Party had now become a strong party in Germany, but it had failed to become the Majority Party. The obstructive tactics of the Nazi deputies in the Reichstag continued, and by the fall of 1932 von Papen's government was no longer able to continue. President von Hindenburg again dissolved the Reichstag and in the new elections of November the Nazi representation in the Reichstag actually decreased to 196 seats. The short lived von Schleicher government then came into being - it was the 3rd December 1932 - and by the end of January 1933 went out of existence. With the support of the Nationalist Party under Hugenberg and other political assistance, Hitler became Chancellor of Germany by designation of von Hindenburg.

H0005-0017

That is the end of the prologue, as it were, to the dramatic and sinister story that will be developed by the prosecution in the course of this trial. Let it be noted here, however, and remembered, as the story of the misdeeds and crimes of these defendants and their fellow conspirators are exposed, that at no time in the course of their alleged "legal" efforts to gain possession of the State, did the conspirators represent a majority of the people.

It is commonly said that the Nazi conspirators "seized control" when Hitler became Chancellor of the German Republic on 30 January 1930. It may be more truly said that they seized control upon securing the passage of the Law for the Protection of the People and the State on 24 March 1933. The steps leading to this actual seizure of power are worthy of recital. The Nazi conspirators were fully cognizant of their lack of control over the legislative powers of the republic. They needed, if they were to carry out the first steps of their grand conspiracy under the cloak of law, an enabling act which would vest supreme legislative power in Hitler's Cabinet, free from all restraints of the Weimar Constitution. Such an enabling act however required a change in the Constitution which, in turn, required two-thirds of the regular members of the Reichstag to be present, and at least two-thirds of the votes of those present.

The timetable of events leading up to the passage of this enabling act, known as the Law for the Protection of the People and the State, is as follows:

1. On January 30th, 1933, Hitler held his first Cabinet meeting and we have the original minutes of that meeting, which will be offered in evidence. The defendants von Papen, von Neurath, Frick, Goering, and Funk were present. According to the minutes of this meeting, Hitler pointed out that the adjournment of the Reichstag would be impossible without the collaboration of the center party.

> "We might, however, consider suppressing the Communist Party to eliminate its votes

H0005-0018

NOTE

WHEREEVER THE NAME OF "MAJOR WALLACE" APPEARS IN THIS TRANSCRIPT, THE SPELLING SHOULD BE "WALLIS".

H0005-0019

in the Reichstag and by this measure achieve a majority in the Reichstag."

He expressed the fear, however, that this might result in a general strike. The Reich Minister of Economy, according to these minutes stated that in his opinion, however, it was impossible to avoid the suppression of the Communist Party of Germany, for if that were not done they could not achieve a majority in the Reichstag, certainly not a majority of two-thirds: that, after the suppression of the Communist Party, the passage of an enabling act through the Reichstag would be possible. The defendant Frick suggested that it would be best initially to request an enabling law from the Reichstag. At this meeting Hitler agreed to contact representatives on the center party the next morning to see what could be done by way of making a deal with them.

2. The next event on this timetable was the Reichstag fire on the 28th of February 1933.

3. Taking advantage of the uncertainty and unrest created by the Reichstag fire, and the disturbances being creaded by the SA, the provisions of the Weimar Constitution guaranteeing personal freedom, and other personal liberties were suspended by a decree of the Reich President on February 28, 1933.

Then on the 5th of March 1933, elections to the Reichstag were held. The Nazis acquired 288 seats out of a total of 647.

On the 15th of March 1933, another meeting of the Reich Cabinet was held, and we also have the original official minutes of that meeting which bears the initials, opposite their names, of the defendants who were present at that meeting signifying that they have read - I contend that it is a reasonable inference to state that it signifies that they read those minutes and approved them. The following defendants were present at this meeting: von Papen, von Neurath, Frick, Goering and Funk. At this meeting, Hitler stated that the putting over of the enabling act in the Reichstag by a two-thirds majority would, in his opinion, meet with no opposition.

H0005 - 0020

The defendant Frick pointed out that the Reichstag had to ratify the enabling act with a constitutional majority within three days, and that the center party had not expressed itself negatively. He went on to say that the enabling act would have to be broadly conceived in a manner to allow for deviation from the provisions of the Constitution of the Reich. He further stated that as far as the constitutional requirement of a two-thirds majority was concerned, a total of 432 delegates would have to be present for the ratification of the enabling act. The defend- and Goering expressed his conviction at this meeting that the enabling act would be ratified with the required two-thirds vote for, if neces- sary, the majority could be obtained by refusing admittance to the Reichstag of some Social Democrats. On the 20th of March another Cabinet

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H0005 - 0021

meeting was held, and we also have the official, original records of this meeting which will be offered in evidence. The defendants Frick, von Papen, von Neurath, Göering and Funk were present. The proposed enabling act was again the subject of a discussion. Hitler reported on the conference he had completed with the representatives of the center party. The defendant Neurath proposed a note concerning the arrangement to be agreed to by the representatives of the center party. The defendant Frick expounded to the meeting the contents of the draft of the proposed law and further stated that changes in the standing orders or rules of the Reichstag were also necessary, that an explicit rule must be made that unexcused absent delegates be considered present, and if that was done it would be possible to ratify the enabling act on the following Thursday in all three readings.

It is interesting to note that among the things recorded on the official minutes of this Cabinet meeting was the defendant Göring's announcement that he had ordered SA troops on the Polish border to be cautious and not to show themselves in uniform, and that the defendant Neurath recommended also that the SA be cautious, especially in Danzig. In addition, the defendant Neurath pointed out that Communists in SA uniforms were being caught continuously. These stool pigeons had to be hanged. Justice had to find means and ways to make possible such punishment for Communist stool pigeons, according to the defendant, Neurath.

On 14th March 1933 the defendant Frick announced:

> "When the Reichstag meets the 21st of March, the Communists will be prevented by urgent labor elsewhere from participation in the session. In concentration camps they will be reeducated for productive work. We will know how to render harmless permanently, sub-humans who don't want to be reeducated."

During this period, taking advantage of the decree suspending constitutional guarantees of freedom, a large number of Communists, including party officials and Reichstag deputies and a smaller number of Social Democratic officials and deputies, were placed in protective custody. On 23 March, 1933 in urging

H0005-0022

the passage of the enabling act, Hitler stated before the Reichstag:

"It is up to you gentlemen to make the decision now. It will be either peace or war."

On 24 March 1933, only 535 out of the regular 647 deputies of the Reichstag were present. The absence of some was unexcused; they were in protective custody in concentration camps. Subject to the full weight of the Nazi pressure and terror, the Reichstag passed an enabling act known as the "Law for the Protection of the People and State," with a vote of 441 in favor. This law marks the real seizure of political control by the conspirators. For Article 1 provided that Reich laws can be enacted by the Reich Cabinet. Article 2 provided the National laws enacted by the Reich Cabinet may deviate from the Constitution. Article 3 provided, national laws enacted by the Reich Cabinet are prepared by the Chancellor and published in the Reichsgesetzblatt. Article 4 provided treaties of the Reich with foreign states which concern matters of national legislation do not require the consent of the parties participating in legislation. The Reich Cabinet is empowered to issue the necessary provisions for the execution of these treaties.

Thus the Nazis acquired full political control, completely unrestrained by any provision of the Weimar Constitution.

I now offer the documents which establish the facts which I have just stated and I also present for the assistance of the Court and the Defense Counsel the briefs covering this portion of the case.

THE PRESIDENT: I wish to speak to Major Wallace. Would it be possible to let the . . . you must go to the microphone . . . he needn't have that on . . Would it be possible for the prosecution to let Defendants' Counsel have at least one copy between each two of them here in court? If not today, then tomorrow.

COL. STOREY: If the Tribunal please, there has been some misunderstanding and the briefs were delivered to the Defendants Document Room. We have sent for some of them and they should be here shortly. However, sir, in all fairness the briefs themselves are not in the German language, because we had intended to take the trial brief and the lawyers follow it over the translating system and thus, when it was finished, it would be translated into all languages.

H0005 - 0023

However, in order to shorten the proceeding, Major Wallace has made a summary, and he is giving the summary and will offer the documents in evidence and later the briefs, as needed, to the Tribunal, and to defense counsel, and unfortunately, in the rush of time, they have been put down in the Defendants' Document Room and we have sent for some of them. We understand, also, if the Tribunal please, that Dr. Kempner approached some of the distinguished counsel for the defense, and learned that a great many of them not only speak English but understand it when they read it, and to save the tremendous physical burden on facilities, the briefs have not, as yet, been translated into Germany. If there is objection, the only thing we can do is to with-hold them at this time, but we understood it would be agreeable to pass them to them in English and that is what we propose to do at the present moment, and have German speaking officers in the Document Room who will translate for any of them who may not be able to read German. Pardon me, to read English.

THE PRESIDENT: Did you hear what Col. Storey said, Dr. Dix?

DR. DIX: I have only one request. I have one request. We are here, as German defense counsel, and in face of great difficulties. These proceedings, are conducted according to Anglo-American customs. We are doing our best to make our way through these principles, and would be very grateful if the President would take into consideration our difficult situation.

I have heard - I am not quite sure if it was right - that in these Anglo-American principles, it is necessary to arrange protests immediately, if one has any objections to the contents of a document and that it is not possible unless one does it at once. This is a point on which I would like to make my request. I am convinced that both the Trial Brief and the documents will be made available to us, and we will see if we can have a German translation of one or the other. If this trouble can be spared, if the defense counsel needs a translation, we shall have it, but I should like . . . I have one request . . that we have leisure to raise an objection later when we have had a chance of discussing it. I think in that way we shall easily overcome the difficulties raised by the present situation, and we are trying to cooperate in order to overcome any difficulties.

H0005-0024

THE PRESIDENT: The Tribunal is glad that Defendants' Counsel are making efforts to cooperate in the trial. After the adjournment, the Tribunal will consider the best method of providing Defendants' Counsel with as many translations as possible, and you are right in thinking that you will be able to make objections to any document after you have had time to consider it.

DR. DIX: Thank you, sir.

PRESIDENT: Yes, Major Wallace?

MAJOR WALLACE: Having acquired full political control, the Nazi conspirators now proceeded to consolidate their power, and at this point I would like to impress upon the Tribunal again that with the exception of a very few documents, the subject matter of my remarks is within the purview of judicial notice of the court, a matter of history well known to these defendants and their counsel. Their first step was to ruthlessly purge their political opponents by confining them to concentration camps or by murder. Concentration camps made their first appearance in 1933 and were first used as means of putting political opponents out of circulation by confining them to a so-called "protective custody." This system of concentration camps grew and expanded within Germany. At a subsequent stage in these proceedings full and complete evidence of the concentration camp system and the atrocities committed therein will be presented to the Court, both by documents and films.

Illustrative documentary evidence of the arrest, mistreatment, and murder by the Nazi conspirators of their political opponents is contained in the documentary evidence offered by the United States.

As an illustration, affidavit of Raymond H. Geist, former American Counsul and First Secretary of the Embassy in Berlin from 1929 to 1938, states (which will be offered):

H0005-0025

"Immediately in 1933, the concentration camps were established and put under charge of the Gestapo. Only political prisoners were held in concentration camps.

"The first wave of terroristic acts began in March 1933, more particularly from March 6 to 13, 1933, accompanied by unusual mob violence. When the Nazi Party won the elections in March 1933 - the accumulated passion blew off in wholesale attacks on the Communists, Jews and others suspected of being either. Mobs of SA men roamed the streets, beating up, looting and even killing persons.

"For Germans taken into custody by the Gestapo there was a regular pattern of brutality and terror. Victims numbered in the hundreds of thousands all over Germany." End of quotation.

On the 30th of June and 1 and 2 July, 1934, the conspirators proceeded to destroy opposition within their own ranks by wholesale murder. In discussing this purge, the defendant Frick stated in an affidavit under oath, signed on the 19th day of November 1945, in the Presence of his defense counsel as follows. This is document number 2950-PS. It has not yet been offered in evidence, sir.

Himmler in June of 1934 was able to convince Hitler that Roehm wanted to start a putsch. The Fuehrer ordered Himmler to suppress the putsch, which was supposed to take place where all of the SA leaders were coming together. For northern Germany the Fuehrer gave orders to suppress the putsch to Goering. Frick goes on to say:

H0005-0026

"On account of this order, many, many people were arrested, something like a hundred, even more, or even killed, who were accused of high treason. They were just killed on the spot. Many people were killed - I don't know how many - who actually did not have anything to do with the putsch. People who just weren't liked very well as, for instance, Schleicher, the former Reich Chancellor, were killed. Schleicher's wife was also killed. Gregor Strasser, who had been the Reich Organization Leader and second man in the Party after Hitler. Strasser, at the time he was murdered, was not active in political affairs any more, however, he had separated himself from the Führer in November or December of 1932".

Frick goes on to say: "The SS was used by Himmler for the execution of these orders to suppress the putsch."

During this period the conspirators created by a series of decrees of the Reich Cabinet, a number of new political crimes. Any act or statement contra to the Nazi Party was deemed to be treason and punished accordingly. The formations of the Party, the SA, SS, as well as the SD and the Gestapo, were the vicious tools used in the extermination of all opposition, real or potential. As the defendant Göring said on July 24th, 1933 (I refer to docket number 2494-PS, which will be introduced in evidence):

"Whoever in the future raises a hand against a representative of the National Socialist movement or of the State, must know that he will lose his life in a very short while. Furthermore, it will

H0005-0027

be entirely sufficient, if he is proven to have intended the act, or, if the act results not in a death, but only in an injury."

The defendant Frick stated in a magazine of the Academy for German Law, 1936, which will be introduced as document number 2533-PS. Frick stated as follows:

"To the world we are blamed again and again because of the concentration camps. We are asked, 'Why do you arrest without a warrant of arrest?' I say, 'Put yourself into the position of our nation.' Don't forget that the very great and still untouched world of Bolshevism can not forget that we have made final victory for them impossible in Europe, right here on German soil."

And Raymond Geist, whose affidavit I previously referred to, being document number 1759-PS, states:

"The German people were well-acquainted with the goings-on in concentration camps, and it was well-known that the fate of anyone too actively opposed to any part of the Nazi program was liable to be one of great suffering. Indeed, before the Hitler regime was many months old, almost every family in Germany had had first hand accounts of the brutalities inflicted in the concentration camps from someone either in the relationship or circle of friend who had served a sentence, and consequently the fear of such camps was a very effective brake on any possible opposition."

H0005-0028

And as the defendant Goering said in 1934, (and I refer to document number 2344-PA, which will be offered in evidence:)

> "Against the enemies of the State, we must proceed ruthlessly . . . Therefore the concentration camps have been created, where we have first confined thousands of Communist and Socialist Democrat functionaries."

In addition to ruthlessly purging all political opponents, the Nazi conspirators further consolidated their position by promptly proceeding to eliminate all other political parties. On 21 March 1933, the defendant Frick announced that the Communists would be prevented from taking part in the Reichstag proceedings. This was accomplished, as has been pointed out, by placing them in "protective custody in concentration camps." On the 26 of May 1933 a Reichs Cabinet decree signed by Hitler and the defendant Frick provided for the confiscation of the Communist property. On 22 June 1933 the Social Democratic Party was suppressed in Prussia, it previously having been seriously weakened by placing a number of its members in concentration camps. On the 7th of July 1933 a Reich decree eliminated Social Democrats from the Reichstag and from the governing bodies of the provinces and municipalities. On the 14 of July 1933 by a decree of the Reich Cabinet, the property of the Social Democrats was confiscated, and the Nazi Party was constituted as the sole political party in Germany, and thereupon it became illegal to maintain or to form any other political party. Thus, Hitler was able to say within hardly more than five months after becoming Chancellor, I quote,

> "The Party has become the State."

The Nazi conspirators immediately proceeded to make that statement a recorded fact, for on the 1st of December 1933 the Reich Cabinet issued a law for the "Securing the Unity of Party and State". This law was signed by Hitler and the defendant Frick.

H0005-0029

Article 1 provided that the Nazi Party ". . . is the bearer of the concept of the State and is inseparably the State. It will be a part of the public law. Its organization will be determined by the Führer."

Article 2 provided: "The Deputy of the Führer and the Chief of Staff of the SA will become members of the Reich Cabinet in order to insure close cooperation of the offices of the Party and SA with public authorities."

Article 3 provided: "The members of the National Socialist German Workers Party and the SA (including their subordinate organizations) as the leading and driving force of the National Socialist State will bear greater responsibility toward Führer, people and State."

(Adjourned from 1540-1550)

COLONEL STOREY: During the recess defendants' counsel and the prosecution arrived at an agreement for the furnishing of briefs to the defendants, which I understand to be this:

Copies of the documents offered in evidence in German will be delivered in the defendants' information center, with the understanding that if any defense counsel needs to show the German photostatic copy to his client he may do so in the defendants' counsel room adjacent thereto; that the briefs which we are passing to theTribunal as an aid will likewise be passed to defendants' counsel in English, and that if any of them have trouble in the translation of any portion of the briefs we have German-speaking officers in defendants' information center who will assist counsel. I understand that all of these defendants' counsel have so agreed.

THE PRESIDENT: Thank you. Now, Major Wallace.

MAJOR WALLACE: May it please the Court, at the moment of recess I was referring to the law which was passed on December 1, 1933, for securing the unity of Party and State.

Article 6 of that law Provided: "The public authorities have to grant legal and administrative assistance to the offices of the

H0005 - 0030

Party and the SA which are entrusted with the execution of the Jurisdiction of the Party and SA."

Article 8 Provided: "The Reich Chancellor as Führer of the National Socialistic German Workers Party and, as the supreme commander of the SA, will issue the regulations necessary for the execution and augmentation of this law, particularly with respect to the organization and procedure of the jurisdiction of the Party and SA." Thus by this law the Nazi Party became a para-governmental organization in Germany.

The further merger of the Party and State occurred on the death of Hindenburg. Instead of holding an election to fill the office of President, the merger of the offices of President and Chancellor, in the person of Hitler, was accomplished by the law of 1 August 1934, signed by the entire Reich Cabinet. One of the significant consequences of this law was to give to Hitler the supreme command of the German armed forces, always a prerequisite of the presidency,

H0005-0031

and every soldier was immediately required to take an oath of loyalty and unconditional obedience to Hitler. On 4 February 1938 Hitler issued a decree which stated in part (and I quote from document number 1915-PS, which will be offered in the document book at the close of my remarks, as follows): "From now on, I take over directly the command of the whole Armed Forces."

As a further step in the consolidation of their political control, the Nazi conspirators reduced national elections to mere formalities devoid of the element of freedom of choice. Elections, properly speaking, could not take place under the Nazi system. In the first place, the basic doctrine of the Fuhrerprinzip dictated that all subordinates must be appointed by their superior in the government hierarchy. Although it had already become the practice, in 1938 it was specifically provided by law that only one list of candidates was to be submitted to the people. By the end of this pre-war period little of substance remained in the election law. The majority of the substantive provisions had become obsolete.

By a series of laws and decrees the Nazi conspirators reduced the powers of regional and local governments and substantially transformed them into territorial subdivisions of the Reich Government. With the abolition of representative assemblies and elective officials in the Lander, and the municipalities, regional and local elections ceased to exist. On 31 January 1934 the last vestiges of Land independence was destroyed by the Law for the Reconstruction of the Reich. The defendant Frick, Minister of the Interior throughout this period, has written of this Law for the Reconstruction of the Reich as follows:

> "The reconstruction law abolished the sovereign rights and the executive powers of the Lander and made the Reich the sole bearer of the rights of sovereignty. The supreme powers of the Landor do not exist any longer. The natural result of this was the subordination of the Land governments to the Reich Government and the Land ministers

H0005-0032

to the corresponding Reich ministers. On 30 January 1934 the German Reich becomes one state."

Another step taken by the Nazi conspirators in consolidating their political power was the purge of civil servants on racial and political grounds and their replacement by Party members and supporters. This purge was accomplished through a series of Nazi laws and decrees. The first was on 7 April 1933, entitled "Law for the Restoration of the Professional Civil Service." Article 3 of the law applied the Nazi blood and master race theories in providing that officials who were not of Aryan descent were to be retired. The political purge provision of the law is contained in Article 4, and I quote,

> "Officials who, because of their previous political activities, do not offer security that they will assert themselves for the National State without reservations may be dismissed."

The effect of this law and the decrees and regulations issued thereunder was to fill every responsible position in the government with a Nazi and to prevent the appointment of any applicant opposed or suspected of being opposed to the Nazi program and policy.

Even the judiciary did not escape the purge of the Nazi conspirators. All judges who failed to fulfill the racial and political requirements of the conspirators were quickly removed. In addition, the Nazis set up a new system of special criminal courts independent of the regular judiciary and directly subservient to the Party program.

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H0005-0033

Moreover, the Nazis controlled all judges through special directives and orders from the central government, their aim being, as expressed by Garland one of the leading Nazi lawyers of that time," . . . to make the word 'terrorization'" in the penal law respectable again."

As their control was consolidated, the conspirators greatly enlarged existing State and Party organizations and established an elaborate net work of new formations and agencies. The Party spread octopus-like throughout all of Germany. This process of growth was summed up late in 1937 in an official statement of the Party Chancellery, as follows:

> "In order to control the whole German nation in all spheres of life -- And I repeat, In order to control the whole German nation in all spheres of life, the NSDAP, after assuming power, set up under its leadership, the new party formations and affiliated organizations."

At this point I would like to offer to the court the document book which contains the laws and conditions which I have referred to in this part of my presentation together with the briefs covering this part of it.

LABOR UNIONS

I would now like to direct the Tribunals attention to some case histories in the consolidation of control by the conspirators.

The first case history in the consolidation of the Nazi conspirators control of Germany is the destruction of the free trade unions and the obtaining of control over the productive labor capacity of the German nation.

The position of organized labor in Germany at the time of the Nazi seizure of power; the obstacles they afforded to the Nazi plans, the speed with which they were destroyed, the tenor and maltreatment ranging from assaults to murder of Union leaders, were fully outlined in the opening address of the Chief Prosecutor of the United

H0005-0034

States, and are fully set forth in the document book which I will present to the court on this phase of the case.

The result achieved by the Nazi conspirators is best expressed in the words of Robert Ley, once scheduled to be a defendant in this trial, but thought better of it. Ley's confidence in the Nazis' effective control over the productive labor capacity of Germany in peace or in war was declared as early as 1936 to the Nurnberg Party Congress. I refer to document 2283-PS which is included in the document book which will be presented on this phase of the case. He stated:

> "The idea of the factory troops in making good progress in the plants, and I am able to report to you, my Fuhrer, that security and peace in the factories has been guaranteed, not only in normal times, but also in times of the most serious crisis. Disturbances such as the munitions strikes of the traitor Ebort and confederates are out of the question. National Socialism has conquered the factories. Factory troops are the National Socialist shock troops within the factory, and their motto is: <u>The Fuhrer is always right</u>."

At this time I would like to offer to the court the document on this phase of the case, namely, "The destruction of labor unions and the gaining of control of all productive labor in Germany," together with the brief on that subject. At the same time, if it please the court, I would like to offer the document book concerning the consolidation of control with respect to the utilization and molding of political machinery, which is in large a decree which I referred to just prior to my discussion of the destruction of labor unions.

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H0005-0035

I would now direct your attention to the second case history in the consolidation of control.

The Nazi conspirators early realized that the influence of the Christian churches in Germany was an obstacle to their complete domination of the German people and contra to their master race dogma. As the defendant Martin Bormann stated in a secret decree of the Party Chancellery signed by him and distributed to all Gauleiters on 7 June 1941--it is identified as document No. D-75 and will be included in the document book which will be presented to the court--he stated as follows:

> "More and more must the people be separated from the churches and their organizations and pastors
>
> *** Not until this has happened does the State leadership have influence on the individual citizens." D-75.

Accordingly, the Nazi conspirators, seeking to subvert the influence of the churches over the people of Germany proceeded to attempt to eliminate these churches.

1. By promoting beliefs and practices incompatible with Christian teachings.

2. By persecuting priests, clergy and members of monastic orders. This persecution, as the documentary evidence will show, ran the gauntlet of insults and indignities, physical assault, confinement to concentration camps and murder.

3. By the confiscation of church properties. (In this connection see 1481-PS)

4. By suppressing religious publications.

5. By the suppression of religious organizations.

H0005-0036

and in addition they suppressed religious education. This is illustrated by the secret decree of the Party Chancellery which I just referred to in document D-75, when the Defendant Bormann stated:

> "No human being would know anything of Christianity if it had not been drilled into him in his childhood by his pastors. The so-called dear God in no wise gives knowledge of His existence to young people in advance, but in an astonishing manner, in spite of His omnipotence, leaves this to the efforts of the pastors. If, therefore, in the future our youth learns nothing more of this Christianity whose doctrines are far below ours, Christianity will disappear by itself." (See Document 1815-PS)

At a subsequent stage in these proceedings, additional documentary evidence of the acts of the conspirators in their attempt to subvert the influence of the Christian churches will be offered. At this time I offer the document book in support of this phase of the case together with the accompanying brief.

We now come to what might be called the third case history, the persecution of the Jews.

H0005 - 0037

The Nazi conspirators adopted and publicized a program of ruthless persecution of Jews.

It is not our purpose at this time to present to the Court a full and complete story, in all its sickening details, of the Nazi conspirators' plans and acts for the elimination and liquidation of the Jewish population of Europe. This will be done in due course at a subsequent stage of these proceedings, but it is our purpose at this time to bring before you as one of the elements in the Nazi scheme for the consolidation of their control of Germany, the action which was planned and taken with respect to the Jews within Germany during the pre-war period.

As a means of implementing their master race policy and as a means of rallying otherwise discordant elements behind the Nazi banner, the conspirators adopted and publicized a program of relentless persecution of Jews. This program was contained in the official, unalterable 25 points of the Nazi Party, of which 6 were devoted to the master race doctrine. The defendents Goring, Hess, Rosenberg, Frank, Frick, Streicher, Funk, Schirach, Bormann and others all took prominent parts in publicizing this program. Upon the Nazis' coming into power, this Party program became the official State program. The first organized act was the boycott of Jewish enterprises on 1 April 1933. The defendant Streicher in a signed statement admits that he was in charge of this program only for one day. We of course reserve the right to show additional evidence with respect to that fact. The nazi conspirators then embarked upon a legislative program which was gradual and which dates from 7 April 1933 until September 1935. During this period a series of laws was passed removing the Jews from civil service, from the professions and from the schools and military service. It was clearn however, that the Nazi conspirators had a far more ambitious program for the Jewish problem and only put off its realization for reasons of expediency. After the usual propaganda barrage in which the speeches and writings of the defendant Streicher were most prominent, the Nazi conspirators initiated the second period of anti-Jewish legislation, namely, from 15 September 1935 to September 1938.

H0005 - 0038

In this period the infamous Nurnberg laws were passed, depriving the Jews of their rights as citizens, forbidding them to marry Ayrans, and eliminating them from additional professions. In the autumn of 1938 the Nazi conspirators began to put into effect a program of complete elimination of the Jews from German life. The measures taken were partly presented as a retaliation against world Jewry in connection with the killing of a German embassy official in Paris. Unlike the boycott action in April 1933 when care was taken to avoid extensive violence, an allegedly spontaneous pogrom was staged and carried out all over Germany (See 374-PS). The legislative measures which followed were discussed and approved in their final form at a meeting on 12 November 1938 under the chairmanship of the defendant Goring, with the participation of the defendants Frick and Funk and others. I refer to document 1816-PS, which will appear in the document book in the office. The meeting was called following Hitler's orders "requesting that the Jewish question be now, once and for all, coordinated and solved one way or the other". The participants agreed on measures to be taken for the elimination of the Jew from German economy. The laws issued in this period were signed mostly by the defendant Goring in his capacity as Deputy for the Four Year Plan, and were thus strictly connected with the con-

H0005-0039

solidation of control of the German economy and preparation for aggressive war. These laws obliged all German Jews to pay a collective fine of 1 billion Reichsmarks; barred the Jews from trades and crafts; limited movement of Jews to certain localities and hours; limited the time for the sale or liquidation of Jewish enterprises; forced Jews to deposit shares and securities held by them; forbade the sale or acquisition of gold or precious stones by a Jew: granted landlords the right to give notice to Jewish tenants before legal expiration of the leases; forced all Jews over 6 years of age to wear the Star of David.

In the final period of the anti-Jewish crusade of the Nazi conspirators within Germany, very few legislative measures were passed. The Jews were just delivered to the SS, Gestapo, and the various extermination staffs. The last law dealing with Jews in Germany put them entirely outside the law and ordered the confiscation by the State of the property of dead Jews. This law was a weak reflection of a factual situation already in existence. As Dr. Stuckart, Assistant to the defendant Frick, stated at that time,

> "The aim of the racial legislation may be regarded as already achieved and consequently the racial legislation as essentially closed. It led to the temporary solution of the Jewish problem and at the same time essentially prepared for the final solution. Many regulations will lose their practical importance as Germany approaches the achievement of the final goal on the Jewish problem."

Hitler, on January 30, 1939, in a speech before the Reichstag, made the following prophesy:

> "The result (of a war) will be the annihilation of the Jewish race in Europe."

I will leave to others in this case the task of presenting to the Court the evidence as to how well that prophesy was fulfilled.

H0005 – 0039

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Now, among the former Reichsleiter, on trial in this cause, may be included the following defendants:

If your Honors will follow me to this broad, horizontal line, we started at the extreme left, at the box marked with the defendant Frank's name. At onetime, although not in March, 1945, he was the Head of the Legal Office of the Party. He was the Reichsleiter des Reichsrechtsamtes.

In the third square appears the defendant Rosenberg, the delegate of the Fuehrer for Idealogical Training and Education of the Party. He was called Der Beauftragte des Fuehrers fur die Uberwachung der gesammten geistigen und weltanschaulichen Schulung und Erziehung der NSDAP.

Next to him, to the right, is the defendant von Schirach, Leader of Youth Education, (Leiter fur die Jugenderziehung).

Next to him, the late defendant Robert Ley appears, at one time Head of the Party Organization, (Reichsorganizationsleiter der NSDAP) and also the Leader of the German Labor Front (Leiter der Deutschen Arbeitsfront).

Then, if we cross the vertical line, and proceed to the right, in passing I might allude to the box marked with the name Schwarz. He was the Party Official and Reischleiter, who certified to the chart before the Tribunal.

As we proceed further to the right, in the next to the last box, we find the name of Frick, who was the leader of the Reichstag fraction,(Leiter des NS Reichstangsfraktion).

The next categories to be considered are the Hoheitstrager, at the bottom of the vertical line, in the center of the chart. The National Socialists called them the bearers of sovereignty. To them were assigned the political sovereignty over specially designated subdivisions of the State, of which they were the appointed Leaders. The Hoheitsrager may be said to represent the vertical organization of the Party.

These leaders, these Hoheitstrager, included all Gauleiters, of which there were 42 within the Reich in 1945. A Gauleiter was a political leader of the largest subdivision of the State. He was charged by the Fuehrer with the political, cultural and economic control over all forms and manifestations of the life of the people and the coordination of the same with National Socialist philosophy and ideology.

H0005 - 0042

A number of the defendants, before the bar of this Tribunal, were former Gauleiters of the NSDAP. I mention, in this connection, the defendant Streicher, Gauleiter of Franconia, Franconian Feuhrer they called him, whose sect was in the City of Nurnberg.

Von Schirach was Gauleiter of Vienna and the defendant Sauckel was Gauleiter of Thuringia.

The next lower category on the chart, were the Kreisleiter, the political leaders of the largest subdivision within the Kreis and a Kreis consisted perhaps of several towns or villages or in the case of a larger city, anywhere from 1500 to 3,00 households.

Next were the Zellenleiter, the political leaders ofa group from 4 to 8 city blocks, or of a corresponding group within country districts and then follow the Blockleiter, the political leaders of from 40 to 60 households.

Now, each of these political leaders, of these Hoheitstrager, or bearers of sovereignty, was directly responsible to the next highest leader in the Nazi heirarchy. The Gauleiter was directly responsible to the Fuehrer himself: the Kreisleiter was directly responsible to the Gauleiter; the Ortsgruppenleiter to the Kreisleiter and so on.

The Fuehrer himself, reserved to himself, in accordance with the philosphy that runs through the Party, the right to name all leaders. It was he, personally, that named the Reichsleiter, all members of the Party Directorate. It was he that appointed all Gauleiters and Kreisleiter and all political leaders down to the grade of Gauamtsleiter, which was a lower classification of political leader, within the Party organization of the Gau.

These Hoheitstrager, together with the Reichsleitung, constituted the all-powerful group of leaders by means of which the Nazi Party reached right down into the lives of the people, consolidated its control of them and compelled them to conform to the National Socialist pattern. For this purpose, broad powers were given to them, including the right to call upon all Party formations to effectuate their plans. They could requisition the services of the SA and of the SS, as well as of the HJ and of the NSKK.

H0005-0043

If I may direct your attention for the moment, to the Party organizations that appear at the extreme left of the chart, I would just like to say that structually these organizations were organized regionally to accord with the offices and regions controlled by the Hoheitstrager. If I might be more explicit, let us take the SA, the subsidiary formations of the SA, came down and corresponded, in its lower organizations, to the Gau, so that we have a Gauleitung in the SA, and further down, to the Kreis. Thus, we have a Kreisleitung in the SA so that the Gauleiter and the Kreisleiter, to cite two examples, charged with a particular duty by the Fuehrer, could call on these organizations for assistance in carrying out their tasks.

These sinister implications of the use of this power will become more apparent as the prosecution's case developes, and as the wealth of evidentiary material is introduced into evidence to prove the criminality of the defendant organizations.

H0005-0044

The component Party organizations, called Gliederungen within the Party, are shown at the extreme left of the Chart, and are the organizations to which I directed the attention of your Honors a moment ago. These organizations actually constitute the Party itself, and substantially the entire Party membership is contained within these organizations. The four principal organizations are sometimes referred to as "paramilitary" organizations. They were uniformed, military organizations and they were armed. These organizations were the notorious SA and SS, who are named as party defendants in this case, the HJ, (Hitler Youth) and the NSKK, (The Motor Corp of the Party). Then there were also the National Socialist Women's Organization, the National Socialist German Student's Bund (Deutscher Studentenbund), and the National Socialist University Teachers' Bund.

There are additional organizations that were officially designated within the Party, as affiliated organizations, not Gliederungen or controlled organizations, but affiliated organizations (Angeschlossene Verbande der NSDAP). Among these organizations we have the German Labor Front (Deutsche Arbeitsfront); we have an organization that controlled the Civil Service (Reichsbund der Deutschen Beamten). There were the physicians in the Deutscher Arztesbund; there were the teachers in the Lehrerbund; there were the lawyers within the National Socialist Rechtswahrerbund, of which at one time, the defendant Frank was the head.

There is another group of organizations, which was officially known as supervised organizations, (Betreute Organisationen der NSDAP) organizations that included certain specialized women's organizations; (Deutsches Frauenwerk) certain student societies; (Deutsche Studentenschaft) former university students; (Altherrenbund der Deutschen Studenten) there was a group that had reference to the German communes (Deutscher Gemeindetag) and there was a Reichsbund fur Leibesubungen, that interested itself in controlling all these interested in physical exercise.

According to the official Party designations applicable to the various organizations and associations that controlled German life in all

H0005-0045

its phases, there was a fourth classification, which is the last organization that appears to the right on the chart before your Honors, which is sometimes simply called Weitere Nationalsozialistische Organisationen, and here, in some respect, we are in "No man's land", because the party was not static, it was dynamic and our latest information is now to the effect that the organizations that ordinarily came within this category, well known organizations, like the RAD (Reich Labor Service) and the NSFK (National Socialist Fliegerkorps) may no longer be included there. At least that was the opinion of the Party Treasurer, who certified to this chart.

I think with these few remarks, I have given some general impressions of the structure of the Party, with which we are dealing in this proceeding.

Before leaving the Chart, perhaps I would just like to point out several other instances where some of the defendants appear in this set-up.

At the very top, to the left of the Fuehrer, as marked on the chart before your Honors, are the successors designate of the Fuehrer. First is the defendant Hess, until 1941, and followed by the defendant Goering. Under the Fuehrer appears the Chief of the Party Chancellery, the defendant Martin Bormann, and then, if we come to the left of the Reichsleiter, and go to the left, opposite Rosenberg's name, we find somewhat below that, his name is repeated, as the Head of an office on a lower level, namely, the Foreign Relations Office of the Party, which played such a sinister role in the early work of the Party, as will later appear in the documentary evidence to be presented to your Honors.

We then come to the late defendant Ley's name, on the main horizontal division, and follow the dotted line to a lower level, and we will find he was the Chief of the German Labor Service, and if we come closer to the vertical line, to a lower level, below the Reichsleiter, we find the defendant Speer, Hauptamt fuer Technik, the Office of Technical Affairs, and below that, as the Chief of the Bund Deutscher Technik (German Technological League).

With the permission of the tribunal, the prosecution will now pass to the consideration of the governmental machinery of the German State,

H0005-0046

which, like the organization of the Nazi Party, requires some brief observations before the prosecution proceeds with the submission of proof on the Common Plan or Conspiracy, with which the defendants have been charged.

If the Tribunal will allow, the prosecution will offer as its second exhibit, another chart, delineating substantially the organizational structure of the government of the Third Reich, as it existed in March 1945, and also "The chief leadership personnel of the Reich Government and the Reich Administration during said years."

This chart has been prepared by the prosecution on the basis of information contained in two official publications, The Manual for Administrative Officers, and the National Socialist Year Book, to which I have already alluded, edited by the defendant Ley.

This chart has been examined and corrected and certified by the defendant Wilhelm Frick, whose affidavit is submitted with the chart. In fact, it is reproduced directly on the copies of the charts before

H0005-0047

your Honor.

It seems plain that the defendant Frick, a former Minister of Interior of the Reich, from January 1933 to August 1943, was well qualified by reason of his position and long service in public office during the National Socialist regime, to certify to the substantial accuracy of the facts disclosed in this chart.

Now, with the permission of the Tribunal, I would like to make some brief comments on this chart.

First of all, we refer to the Reichsregierung, which is the big box in the center of the chart on the vertical line, directly below Hitler. The Reichsregierung is a word that may not be translated literally as "government of the Reich". The word Reichsregierung is a word of art and is applied collectively to the Ministers who composed the German Cabinet.

The Reichsregierung has been named as a defendant in this proceeding, and as used in the Indictment, the expression is used to identify a group which we will urge, should be declared to have been a criminal organization.

This group includes all the men named in that center box, who were members of the Cabinet after 30 January 1933, that is Reich Ministers with and without Portfolio, and all officials entitled to participate in the declarations of the Cabinet.

Secondly, it includes members of the Council of Ministers for the Defense of the Reich. It is called Ministerrat fuer die Reichsverteidigung, which is the large box to the right of the vertical line.

Then, it includes the members of the Secret Cabinet Council, which is the small box to the left of the vertical line, the Geheimer Kabinettsrat, of which the defendant von Neurath was the President.

Unlike the Cabinets and Ministerial Councils in countries that were not within the orbit of the former Axis, the Reichsregierung, after January 30, 1933, when Adolf Hitler became Chancellor of the German Republic, did not remain merely the Executive Branch of the Government. In short order it also came to be possessed, and it exercised, legislative and other functions as well, in the government system, into which the German Government developed while under the domination of the National Socialist Party.

H0005-0048

It is proper to observe here, that unlike such Party organizations as the SA and SS, the Reichsregierung, before 1933, certainly, was not a body created exclusively or even predominantly for the purpose of committing illegal acts. The Reichsregierung was an instrument of government provided for by the Weimar Constitution. Under the Nazi regime, however, the Reichsregierung gradually became primary agent of the Party, with functions formulated in accordance with the objectives and methods of the Party itself. The Party, to all intents and purposes, was intended to be a "Fuehrerorden", and order of Fuehrers, a pool of political leaders, and while the Party was -- in the words of a German law - "the bearer of the concept of the German State", it was not identical with the State.

Thus, in order to realize its idealogical and political objects and to reach the German people, the Party had to avail itself of official State channels.

The Reichsregiegung, and such agencies and offices established by it, were the chosen instruments by means of which Party politices were converted into legislative and administrative acts, binding upon the German people as a whole.

In order to accomplish this result, the Reichsregierung was thoroughly remodelled by the Party. Some of the steps may here be recorded, by which the coordination of Party and State machinery was assured in order to impose the will of the Fuehrer on the German people.

On January 30, 1933, the date that the Fuehrer became Reichschancellor, there were a few National Socialists that were Cabinet members. But, as the power of the Party in the Reich grew, the Cabinet came to include ever increasing numbers of Nazis, until by January, 1937, no non-Party member remained in the Reichsregierung. New Cabinet posts were created and Nazis appointed to them. Many of these Cabinet members were also in the Reichsleitung of the Party.

H0005-0049

To give but a few examples:

The defendant Rosenberg, whose name your Honors will find in that central box on the vertical line, the delegate of the Fuehrer for Ideological Training and Education of the Party, was a member of the Reichsregierung, in its capacity as Minister for the Occupied Eastern Areas, the Reichministerium fuer die besetzten Ostgebiete.

And if your Honors will follow me on the vertical line to the main horizontal line and proceed to the very end you will find a box marked "Ministry for the Occupied Eastern Territories", of which the head was the defendant, Rosenberg.

The defendant, Frick, the leader of the National Socialist faction in the Reichstag, was also Minister of the Interior.

If your Honors will follow me down to the main horizontal line and two boxes over you will find the Ministry presided over by the defendant, Frick. Goebbels, the Reichsleiter for Propaganda, also sat in the Cabinet as Minister for Public Enlightenment and Propaganda, Reichsministerium fuer Volksaufklaerung und Propaganda.

In the next box, to the right from the Ministry of the Interior, after the 25th of July, 1934, participation in the work of the cabinet was at all times achieved through the person of the defendant, Rudolf Hess, the Deputy Fuehrer. By a decree of Hitler the defendant, Hess, was invested with the power to take part in the editing of legislative bills with all the departments of the Reich. Later this power of the Fuehrer's deputy was expanded to include all executive decisions and orders that were published in the Reichsgesetzblatt, the official volume in which are contained the decrees of the State. After Hess's flight to England in 1941 the defendant, Martin Bormann, as his successor, took over the same function, and in addition he was given the authority of a Reichsminister so that he could sit in the Cabinet.

Now, another item of importance:

On the 30th of January, 1937, four years after Hitler became Chan-

H0005-0050

cellor, the Fuehrer executed the acceptances into the Party of those last few Cabinet members who still remained out of the Party. Only one Cabinet member had the strength of character to reject membership in the Party. That was the Minister of Transportation and Minister of Posts, Mr. Eltz-Ruebenau. His example was not followed by the defendant, von Neurath. His example was not followed by the defendant, Raeder. And if the defendant Schacht was not yet at that time a member of the Party, I might say that his example was not followed by the defendant Schacht.

The chart shows many other instances where Party members on the highest, as well as subordinate levels, occupied corresponding or other positions in the organization of the State. Take Hitler himself, as the Fuehrer of the NSDAP. He was also the Chancellor of the Reich, with which office, furthermore, the office of President of the Reich was joined and merged after the death of President von Hindenberg in 1934.

Take the defendant Goering, the successor-designate of Hitler. As Fuehrer of the NSDAP he sat in the Cabinet as Air Minister, Luftfahrtminister, and he also held many other important positions, including that of Commander-in-Chief of the Luftwaffe, the German Air Force, and that of Delegate for the Four Year Plan.

Himmler, the notorious head of the SS, the Reichsfuehrer's SS, was also the Chief of the German Police, reporting to the defendant Frick. He himself later became Minister of the Interior after the attempted assassination of Hitler on June 20, 1944, which event also catapulted him into the position of Commander-in-Chief of the German Reserve Army.

Now, at the extreme upper left of the chart is a box that is labeled "Reichstag".

(Here a short recess was taken).

In that box is the label "Reichstag", the former German Parliament.

The Reichstag presents an anomaly in this picture. Under the Republic it had been the supreme law-making body of the Reich, subject only to a limited check by the Reichstag - the Council of the Reich, by

H0005 - 0051

the President and by the people themselves by way of Initiative and Referendum.

Putting their opposition to all forms of Parliamentarianism into effect at once, the Nazis proceeded to curtail the powers of the Reichstag, to eliminate the Reichstag, and to merge the Presidency with the Office of Chancellor occupied by the Fuehrer. By the Act of 24th of

H0005 - 0052

March, 1933, the Cabinet was given unlimited legislative powers, including the right to deviate from the Constitution. Subsequently, as I stated, the Reichstag was abolished, and with that act the residuum of the power to legislate in the Reichstag was reduced to a minimum. I say the power was reduced to a minimum because the actual power to legislate was never taken away from the Reichstag, but certainly after the advent of the Party to power it was never permitted to exercise as a legislature.

The Reichsregierung retained its legislative powers throughout, even though from time to time other agencies of the Reichsregierung, such as the Plenipotentiary for Administration, in the upper right of the chart, the Generalbevollmaechtigter fuer die Reichsverwaltung, the Plenipotentiary for Economy, also in the right-hand corner of the chart, the Generalbevollmaechtigter fuer die Wirtschaft, and the Council of Ministers for the Defense of the Reich, was created. That is the big box to the right of the vertical line. And these agencies of the Reichsgegierung received certain concurrent legislative powers.

The development of the Reichstag into an emasculated legislative body was, however, only an intermediate step on the road to rule by Fuehrer decree. That was the ultimate goal of the Party, and a goal which they achieved.

The Nazis then proceeded to delegate some of the powers of the Reich Cabinet to all sorts of newly created agencies, some of which I have already mentioned. Cabinet functions were delegated first of all to the Reich Defense Council, the Reichsverteidigungsrat, possibly as early as the 4th of April, 1933, but we believe certainly not later than 1935. I might say in this connection that with respect to a number of these agencies of the Reichsregierung that received delegated powers, we are moving in a somewhat shadowy land, because in developing this organization we are dealing -- to some extent, at least -- with decrees and actions that were secret, or secretive, in character.

A number of these decrees were never definitely fixed in time.

H0005-0053

A number of them were never published and the German people themselves never became acquainted with them. And that is why I say that the Reich Defense Council may possibly have been created as early as two and one-half months after the advent of Hitler to power but we believe that we will be able to show to the satisfaction of the Tribunal that that important body in the government of the Reich was created certainly not later than May, 1935.

I say it is an important body. This was the war-planning group of which Hitler himself was chairman and the Defendant Goering the alternate. It was a large war-planning body, as your Honors will note, that included many cabinet members, and there was also a working committee - the true numerical size of which does not appear from the chart - which was presided over by the Defendant Keitel. That also was composed of Cabinet members and of Reich Defense officials, the majority of whom were appointed by Cabinet officers and subject to their control.

H0005 - 0054

Other powers were delegated to the Plenipotentiary, whom I have named, for administration, appearing at the extreme right of the chart. That was the defendant Frick, and later the notorious Himmler.

Subordinate to Frick in his capacity as Plenipotentiary for Administration were complete ministries, Ministry of the Interior, Frick's old ministry, Ministry of Justice, Education, Church Affairs, and Raumordnung, the Ministry for Space Planning.

Other powers went to the delegate for the four Year Plan, again the defendant Goering, whose box appears to the left of the median line, half way to the edge.

There were certain other powers that went to an organi zation within the shadow land I mentioned, and which, unfortunately, does not have its name appear on this chart, the Dreierkollegium, the college of Three, which title should really be imposed over the last three boxes in the upper right hand corner; because the Dreierkollegium consisted not alone of the Plenipotentiary for Administration, but also the Plenipottentiary for War economy. And the Chairman of that group I believe was the defendant Keitel, as the head of the OKW, the Wehrmacht, all the armed forces. The du ties of the Dreierkollegium would seem to have included the drafting of decrees in preparation of and use during war. To the secret Cabinet Council, the Geheimer Kabinettsrat, of which the defendant von Neurath was Charman, or the President, I believe was his title, went other powers. That secret Cabinet Council was created by a decree of the Fuehrer in 1939.

Certain other delegation of power tool place to the Ministerrat Fuer die Reichsverteidigung, the Minister ial Council for defense of the Realm, which is the smallest box appearing under the large box of the Reich Defense Council, to the right of the vertical line.

The Council of Ministers for the defense of the Reich was responsible to the Fuehrer alone. Its membership, as would seem to be indicated in the chart, was taken from the Reich Council. It had broad powers to issue decrees with the force of law in so far as the Reichsregierung itself had not legislated on the subject.

H0005 - 0055

It should be stressed that this delegation of cabinet functions to various groups, composed largly of its own members, helped to conceal s some of the important policies of the Reichsregierung, namely, those relating to the preparation of war, which delegated the necessary authority to secret and semi-secret agencies. Thus in a general way as I have outlined, did the National Socialist Party suceed in putting Nazi policies into effect through its dummy, through the machinery of the State, the Reichsregierung, in its revised form.

I think it might be helpful if your honors will permit me to point out on this chart the large number of instances in which the defendan ts names reappear in connection with the functions of the Government of the Reich.

Now, first of all, the Reichsregierung itself-- I am sorry to say in thatconnection that there is one ommission, a very important ommission. It was the name of the Vice Chancellor under Mr Hitler, von Papen, who was Vice Chancellor from the seizure until some time around the purge June 1934.

Your Honors will see a grouping of Reich ministers with portfolio , and under it of ministers without portfolio, in which mostly the names of the defendants in this court are listed. There are state minister acting as Reich ministers listed, and you will note the name of defendant Frank. There are other participants in cabinet meetings, among which you will notice the name of the defendant von Schirach.

Now , this whole line on which the cabinet hangs is the level of the Reich Cabinet, and as I have stated, organizations that grew out of this m maternal organism, the Reichsreigierung.

To the left of the secret Cabinet Council includes the

H0005-0056

names of the defendants. Still further to the left is the delegate for the Four Year Plan. And over to the very end is the Reichstag, of which the president was the defendant Goering, and the leader of the Reichstagsfraktion, the defendant Frick.

If we proceed to the right of the median line, we have the Reich Defense Council, with Hitler himself as Chairman, the Reich Defense Committee under it, and the Ministerial Council for Defense of the Realm, which grew out of the Reich Defense Council. We see mostly the names of cabinet ministers, including, if I may advert to that fact, particularly the names of purely military leaders, such as the defendant Raeder and the defendant Keitel.

Farther to the right, all names mentioned as defendants in these proceedings, Schacht, the first Plenipotentiary for War Economy, later succeeded by Funk; Field Marshall Keitel as the Chief of the OKW, and the defendant Frick again as Plenipotentiary for Administration, in the triangle which became known as the Dreierkollegium.

If we descend the vertical line to the horizontal line in the middle, we have the various ministries over which these cabinet ministers, this Reichsregierung, presided. We have also at the extreme left, and the extreme right, very important and special offices that were set up at the instigation of the Party, and those offices reported directly to the Fuehrer himself.

If I may start at the extreme left, I will point out that as the civil government moved after the military machine into the Lowlands, the defendant Seyss-Inquart became the Reichskommissar for the Netherlands.

A few names below that of Seyss-Inquart is the name of the defendant von Neurath, the Reichsprotektor for Bohemia and Moravia, who was later succeeded by the defendant Frick; and under those names, the name of the defendant Frank, the General Governor of Poland.

Adjoining the box of these administrators who reported directly to the Reich Chancellor and President was the Foreign Office, presided over first by the defendant von Neurath, and subsequently by the defendant von Ribbentrop.

H0005-0057

If we proceed down below the elongation under the smaller box dealing with German legations, there should of course in any itemized, detailed treatment of that box appear the name of the defendant von-Papen, the representative of the Reich, in Austria for a time and later in Turkey.

The next box on the horizontal line is the Ministry of Economics, the Reichsweirtschaftsministerium. First is the name of the defendant Schacht, followed by the name of the defendant Goering, and then by the name of the defendant Funk.

The next box, the Ministry for Armament and War Production, the Reichsministerium fuer Ruestung and Kriegsproduktion, was presided over by the defendant Speer. And out of this organization, and subordinate to it, in the box devoted to the Organization-Todt, again the name of the defendant Speer, who succeeded Todt to the leadership of that organization upon the death of Todt.

Two boxes over, the Ministry of Justice, if your Honors will follow me, down close to the bottom of the page to the last lefthand box, appearing under the Ministry of Justice, is the Reichsrechtsanwaltskammer -- I am sorry, the box next to the bottom at the left which is devoted to the Academy for German Law, Akademie Fuer deutsches Recht, over which the defendant Frank presided for a time.

Almost at the vertical line, the Air Ministry, of which the defendant Goering was Oberkommando; and next to it, the Ministry of the Interior, presided over by the defendant Frick.

If your Honors will follow me again to the bottom of

H0005-0058

all the squares to the small horizontal line at the bottom of the Ministry of the Interior, we come to certain state officials, called Reich Governors, Reichstatthalter. And if those boxes were sufficiently detailed there would appear thereon the names, among others, of the defendant Sauckel, who besides being the Gauleiter of Thuringia, was also the Reichstatthalter or Governor there. There would also appear the name of the defendant von Schirach, who was not alone the Gauleiter of Vienna, but also the state representative there, the Governor, the Reichstatthalter, of Vienna.

And springing out of the Ministery of the Interior is the box or boxes devoted to the German police, and in the first sub-division appearing to the right, the chief of the Security Police and SD, the name of the defendant Kaltenbrunner.

In the Ministry of Propaganda, about midway down in this box, appears the name of the defendant Fritzsche, who although as the charge is drawn would not appear in the position of one of the chief directing heads of the ministry, actually was very much more important than his position there will indicate; and proof will be submitted to your Honors in support of that contention.

At the end of the horizontal line is the Ministry for the Occupied Eastern Territories, the Reichsministerium fuer die Besetzten Ostgebiete, of which the defendant Rosenberg was the head.

To the right of that box, among the agencies immediately subordinate to Hitler as Reich Chancellor and President, there is the office of General Inspector for Highways, with the name of the defendant Speer associated with it; the General Inspector for Water and Energy, again with the name of the defendant Speer associated with it.

H0005-0059

There follows the Reich Office for Forestry, the Reichsforstamt, under the defendant Goering; the Reichsjugenfuehrer, the leader of the Reich Youth, the defendant von Schirach; the Reich Housing Commissioner, Reichswohnungskommissar, the late defendant Robert Ley; and among the subsequent agencies, that of the important Reichsbank, over which the defendant Schacht presided, to be succeeded subsequently by the defendant Funk; the General Inspector for the Reich Capital, Generalbauinspekteur fuer die Reichshauptstadt, the defendant Speer.

I think I have named all of the defendants as they appear on this chart, and of those now before your Honors in this case I think they all appear on this chart in one capacity or another, in one or more capacities, all I might add except the defendant Jodl. Jodl was the Chief of Staff of all the armed forces. He was the head of the Wehrmacht Feurungstadt, and in the evidential material which will be subsequently brought before your Honors, the name Jodl will figure prominently in connection with the organization of the armed forces.

If I may make one correction at this point, a slip of the tongue that was called to my attention, in discussing the chart of the Party, in the small box to the left containing the designates of the Fuehrer to succeed him to the Party leadership, I made the statement that Goering succeeded Hess as Fuehrer designate. Actually when the designations were announced by the Fuehrer, Goering was always the first designate, and the defendant Hess the second.

In the Annex A of the Indictment the various offices, party functions and state offices which these defendants

H0005-0060

held in the course of the period under discussion, these various offices are mentioned. We would like to submit at this time and offer into evidence as exhibits proof of the offices that were occupied by these defendants. This proof consists of 17 statements, more or less, signed by the defendants themselves and/or their counsel, certifying to the Party and State offices that they have held from time to time. Some of these statements were not as complete as we desired to have them, and we have appended thereto a statement showing such additional offices or proof of Party membership as was available to us. I would like to offer those into evidence.

(Several documents were distributed to Defense Counsel)

MR. ALBRECHT: (cont'd) And now, if your Honors please, I offer into evidence the two charts to which my remarks have been addressed in the course of the morning.

THE PRESIDENT: Will Counsel for the United States continue the evidence until half past 12:00 ?

COLONEL STOREY: If your Honor please, it lacks two minutes until half past 12:00. Mr. Albrecht has finished, and will it be convenient for Major Wallace to start at 2:00 o'clock?

THE PRESIDENT: Very well.

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H0005-0061

OFFICIAL TRANSCRIPT

of the

INTERNATIONAL MILITARY TRIBUNAL

in the matter of

The United States of America, the French Republic, the United Kingdom of Great Britain and Northern Ireland, and the Union of Soviet Socialist Republics against Herman Wilhelm Goering, et al, Defendants, sitting at Nurnberg, Germany, on 22 November 1945, 1000-1230, Lord Justice Lawrence, presiding.

THE PRESIDENT: Before the Chief Prosecutor for the United States proceeds to present the evidence on Count 1, the Tribunal wishes me to announce the decision on the application made on behalf of the Defendant Julius Streicher by his counsel that his condition should be examined. It has been examined by three medical experts on behalf of the Tribunal and their report has been submitted to and considered by the Tribunal; and it is as follows:

"1. The Defendant Julius Streicher is sane.

"2. The Defendant Julius Streicher is fit to appear before the Tribunal, and to present his defense.

"3. It being the unanimous conclusion of the examiners that Julius Streicher is sane, he is for that reason capable of understanding the nature and policy of his acts during the period of time covered by the indictment."

The Tribunal accepts the report of the medical experts and the trial against Julius Streicher will, therefore, proceed.

The other matter to which I have to refer, is a motion on behalf of counsel for Bormann, whom the Tribunal have decided to try in his absence in pursuance of Article 12 of the Charter. Counsel for Bormann have made a motion that the trial against him should be postponed, but in view of the fact that the provisions of the Charter and the Tribunal's rules of procedure have been strictly carried out in the notices which have been given, and the fact that counsel for Bormann will have ample time before they are called upon to present defense on his behalf, the

H0005-0062

motion is denied.

I will now call upon counsel for the United States to present the evidence on Count 1.

COLONEL STOREY: May it please the Tribunal: As the first order of business concerning the evidence, it shall be my purpose to outline the method of capturing, assembling, processing and authenticating documents to be presented in evidence by the United States. I shall also describe and illustrate the plan of presenting documents and briefs relating to the United State's Case in Chief.

As the United States Army advanced into German territory, there were attached to each Army and subordinate organization specialized military personnel whose duties were to capture and preserve enemy information in the form of documents, records, reports and other files. The Germans kept accurate and voluminous records. They were found in Army headquarters, government buildings and elsewhere. During the later stages of the war, particularly, such documents were found in salt mines, buried in the ground, behind false walls and many other places believed secure by the Germans. For example, the personal correspondence and diaries of Defendant Rosenberg, including his Nazi Party correspondence, were found behind a false wall in an old castle in Eastern Bavaria. The records of the OKL, or Lutfwaffe -- of which the Defendant, Goering, was Commander-in-Chief -- equivalent to the Headquarters of the Air Staff of our Army Air Forces of the United States, were found in various places in the Bavarian Alps Most of such Luftwaffe records were assembled and processed by the Army at Berchtesgaden.

When the Army first captured documents and records, they immediately placed the materials under guard and later assembled them in temporary Document Centers. Many times the records were so voluminous that they were hauled by fleets of Army trucks to document centers. Finally, as the territory seized was made secure, Army zones were established and each Army established a fixed document center to which were transported the assembled documents and records. Later this material was indexed and cataloged, which was a slow process.

H0005-0063

Beginning last June, Mr. Justice Jackson requested me to direct the assembling of documentary evidence on the Continent for the U. S. case. Field teams from our office were organized under the direction of Major William H. Coogan, who established U. S. liaison officers at the main Army document centers. Such officers were directed to screen and analyze the mass of captured documents, and select those having evidentiary value for our case. Literally hundreds of tons of enemy documents and records were screened and examined and those selected were forwarded to Nurnberg for processing. I now offer in evidence an affidavit of Major Coogan, dated 19 November 1945, attached hereto, describing the method of procedure, capture, screening, and delivery of such documents to Nurnberg.

At this time, if your Honors please, and in order to present this matter to the Tribunal, I believe it wise to read at last substantial portions of this affidavit. It is dated the 19th of November, 1945.

H0005-0064

19 November 1945

I, MAJOR WILLIAM H. COOGAN, O-455814, Q.M.C., a commissioned officer of the Army of the United States of America, do hereby certify as follows:

The United States Chief of Counsel in July 1945 charged the Field Branch of the Documentation Division with the responsibility of collecting, evaluating and assembling documentary evidence in the European Theater for use in the prosecution of the major Axis war criminals before the International Military Tribunal. I was appointed Chief of the Field Branch on 20 July 1945. I am now the Chief of the Documentation Division, Office of United States Chief of Counsel.

I have served in the United States Army for more than four years and am a practicing attorney by profession. Based upon my experience as an attorney and as a United States Army officer, I am familiar with the operation of the United States Army in connection with seizing and processing captured enemy documents. In my capacity as Chief of the Documentation Division, Office of the United States Chief of Counsel, I am familiar with and have supervised the processing, filing translation and photostating of all documentary evidence for the United States Chief of Counsel.

The Field Branch of the Documentation Division was staffed by personnel thoroughly conversant with the German language. Their task was to search for and select captured enemy documents in the European Theater which disclosed information relating to the prosecution of the major Axis war criminals. Officers under my command were placed on duty at various document centers and also dispatched on individual missions to obtain original documents. When documents were located, my representatives made a record of the circumstances under which they were found and all information available concerning their authenticity was recorded. Such documents were further identified by Field Branch pre-trial serial numbers, assigned by my representatives who would then periodically dispatch the original documents by courier to the Office of the United States Chief of Counsel.

Upon receipt of these documents they were duly recorded and indexed. After this operation, they were delivered to the Screening

H0005-0065

and Analysis Branch of the Documentation Division of the Office of United States Chief of Counsel, which Branch re-examined such documents in order to finally determine whether or not they should be retained as evidence for the prosecutors. This final

H0005-0066

screening was done by German-speaking analysts on the staff of the United States Chief of Counsel. When the document passed the screeners, it was then transmitted to the Document Room of the Office of United States Chief of Counsel, with a covering sheet prepared by the screeners showing the title or nature of the document, the personalities involved, and its importance. In the Document Room, a trial identification number was given to each document or to each group of documents, in cases where it was desirable for the sake of clarity to file several documents together.

United States documents were given trial identification numbers in one of five series designated by the letters: "PS", "L", "R", "C", and "EC", indicating the means of acquisition of the documents. Within each series documents were listed numerically.

After a document was so numbered, it was then sent to a German-specking analyst who prepared a summary of the document with appropriate references to personalities involved, index headings, information as to the sources of the document as indicated by the Field Branch, and the importance of the document to a particular phase of the case. Next, the original document was returned to the Document Room and then checked out to the photostating department, where photostatic copies were made. Upon return from photostating, it was placed in an envelope in one of several fireproof safes in the rear of the Document Room. One of the photostatic copies of the document was sent to the translators, thereafter leaving the original itself in the safe. A commissioned officer has been, and is, responsible for the security of the documents in the safe. At all times when he is not present the safe is locked and a military guard is on duty outside the only door. If the officers preparing the certified translation, or one of the officers working on the briefs, found it necessary to examine the original document, this was done within the Document Room in the section set aside for that purpose. The only exception to this strict rule has been where it has been occasionally necessary to present the original document to the defendants for examination. In this case, the document was entrusted to a responsible officer of the prosecution staff.

H0005-0067

All original documents are now locked in safes in the Document Room, where they will be secured until they are presented by the prosecution to the court during the progress of the trial.

Some of the documents which will be offered in evidence by the United States Chief of Counsel were seized and processed by the British Army. Also, personnel from the Office of the United States Chief of Counsel and the British War Crimes Executive have acted jointly in locating, seizing and processing such documents.

Substantially the same system of acquiring documentary evidence was utilized by the British Army and the British War Crimes Executive as that hereinabove set forth with respect to the United States Army and the Office of the United States Chief of Counsel.

Therefore, I certify in my official capacity as hereinabove stated, to the best of my knowledge and belief, that the documents captured in the British Zone of Operations and Occupation, which will be offered in evidence by the United States Chief of Counsel, have been authenticated, translated, and processed in substantially the same manner as hereinabove set forth with respect to the operations of the United States Chief of Counsel.

Finally, I certify, that all Documentary evidence offered by the United States Chief of Counsel, including those documents from British Army sources, are in the same condition as captured by the United States and British Armies; that they have been translated by competent and qualified translators; that all photostatic copies are true and correct copies of the originals and that they have been correctly filed, numbered and processed as above outlined."

" WILLIAM H. COOGAN
Major, QMC
O-455814"

H0005-0068

describing the method of capture, screening, and delivery of such documents to Nurnberg.

After the documents selected by the screening process outlined reached our office, they were again examined, re-screened, and translated by expert U. S. Army personnel, as outlined by Major Coogan .

Finally, more than 2,500 documents were selected and filed here in the Court House. At least several hundred will be offered in evidence. They have been photographed, translated into English, filed, indexed, and processed. The same general procedure was followed by the British War Crimes Executive with regard to documents captured by the British Army, and there has been complete integration and cooperation of activities with the British in that regard.

In order to present our case and to assist the Tribunal, we have prepared written briefs on each phase of our case which cite the documents by appropriate numbers. Legal propositions of the United States will also be presented in such briefs. The briefs and documents will cover each allegation of the Indictment which is U. S. responsibility . I hold in my hand one of the trials briefs entitled "Reshaping of Education, Training of Youth," which will be offered later on this day. Accompany each brief is a Document Book containing true copies in English of all documents referred to in the brief. I hold im my hand the document book that will be submitted to this Tribunal in support of the brief which I have just exhibited to your Honors. Likewise, copies in German have been, or will be, furnished to Defense Council at the time such documents are offered in evidence. Upon conclusion of the presentation of each phase or section of our case by council, the entire book of documents will be offered in evidence such as this book. At the same time, Lt Barrett who will sit right here all during the trial and who is on our staff, will hand to the clerk of this Tribunal the original documents that may be offered in evidence in this form. It will have the seal of the Tribunal, will be exhibit U.S.A. 2836-PS, and in turn Lieutenant Barrett will hand the original document to the Tribunal. In the same manner, the document book will be passed by

H0005 - 0069

by Lieutenant Barrett to the clerk of the Court, and these trial briefs for the assistance of the Tribunal will be made available to the Court and to Defense Council. Likewise , copies of documents actually introduced in evidence will be made available to the Press. Thus may your Honors please, it is hoped that by this procedure the usual laborious and tedious method of introducing documentary evidence may be expedited.

May I therefore, respectfully inquire of the Tribunal and of Defense Council if there is ant objection to the procedure outlined. If not, the United States will proceed with the presentation of the documentary evidence and trial briefs as outlind herein.

THE PRESIDENT: Will you wait one moment?

COLONEL STOREY: Yes, Sir.

THE PRESIDENT: The Tribunal has no objection to the course that you propose.

COLONEL STOREY: If I may, if your Honors please, may I now announce what will be presented immediately following by the United States?

THE PRESIDENT: I think perhaps that I ought to say for Counsel for the defendants that their silence will be taken as their assent to the course proposed. In the absence of any objection by them to the course proposed by Colonel Storey on behalf of the Chief Prosecutor for the United States, the Tribunal will take it that they agree that the course is convenient.

Thank you, gentleman.

COLONEL STOREY: If your honors please, the next presentation will be the briefs and documents on the common plan or conspiracy up to 1939. We will open by presentation of charts of the Nazi Party and Reich Government with exhibits and explanation by Mr Albrecht. Then will be followed a presentation of the trials briefs and documents on the other phases of the common plan or conspiracy up to 1939.

Mr Albrecht.

MR ALBRECHT: May it please the Tribunal, the prosecution will now allude breifly to certain facts, which may well be considered to be

H0005-0070

within judicial purview, the consideration of which the prosecution has found useful in understanding and evaluation the evidence that will be presented to the Tribunal during the trial, in support of the allegations of the Indictment.

In the opinion of the prosecution, some preliminary reference must be made to the National Socialist German Labor Party, the NSDAP, which is not itself one

H0005-0071

of the defendant organizations in this proceeding, but which is represented among the defendant organizations by its most important formations, viz. the Leadership Corps of the NSDAP, which you will hear referred to as Das Korps der Politischen Leiter der NSDAP, the SS (Die Schutzstaffeln der NSDAP), and the SA (Die Sturmabteilungen der NSDAP).

With the permission of the Tribunal the prosecution will offer at this point, as its first exhibit, a chart showing the structure and organization in March 1945. This chart has been prepared by the prosecution on the basis of information contained in important and well-known official publications of the National Socialist Party with which the defendants must be presumed to have been well acquainted. We refer particularly to the Organization Book of the Party (Das Organisationsbuch der NSDAP), and to the National Socialist Year Book (Nationalsozialistisches Jahrbuch), of both of which, be it noted, the late defendant, Robert Ley, was the chief editor or publisher. Both books appeared in the course of time and were printed in many editions and appeared in hundreds of thousands of copies, throughout the period when the National Socialist Party was in control of the German Reich and of the German people. The chart, furthermore, which we are offering has been certified on its face as correct by a high official of the Nazi Party, viz. Franz Xaver Schwarz, its Treasurer (Reichsschatzmeister der NSDAP), and official in charge of Party administration. The first affidavit is being submitted with the chart, and I now wish to offer this chart in evidence.

We have been able to have this chart duplicated, and, with the permission of the Tribunal, are making it available to all concerned.

Before I offer some remarks of explanation concerning the organization of the National Socialist German Labor Party, which we believe will be found useful in connection with the prosecution's case, I would just like to call the attention of the Tribunal to the fact that the larger chart which now appears is a simplification of the duplicated chart which your Honors have been furnished, for if it had been reproduced in the same detail, I am afraid many of the boxes would not have appeared intelligible from this point.

H0005-0072

I would like to call your attention first of all to an organization with which we will have to become very familiar, the Leadership Corps of the NSDAP, the Reichsleiter, which has been named as a defendant organization and which comprises the sum of the officials and leaders of the Nazi Party. If your Honors will be good enough to follow me down the center line of the chart, we come to the main horizontal line of division where the word "Reichsleiter" appears. That is the first category of the Leadership Corps, I should say, the main category, perhaps, of the Leadership Corps.

The Fuehrer, of course, stands above it. As we follow the vertical line of division to the lower part of the chart, we reach five additional boxes, which may be referred to collectively as the Hoheitstraeger, the bearers of the sovereignty of the Party, and those are the Gauleiter, the Kreisleiter, the Ortsgruppenleiter, the Zellenleiter, and the Blockleiter.

The Fuehrer at the top of the chart is the supreme and only leader who stands at the top of the Party hierarchy. His successor designate was first, the defendant Hess, and second, the defendant Goering.

The Reichsleiter, of whom sixteen are shown on this chart, comprise collectively the Party Directorate (Reichsleitung). Through them, coordination of Party and State machinery was achieved. A number of these Reichsleiters, each of whom at some time was in charge of at least one office within the Party Directorate, were also the heads of other Party formations and of affiliated or supervised organizations of the Party and also of agencies of the State, or even held ministerial positions. The Reichsleitung may be said to represent the horizontal organization of the Party according to functions, within which all threads controlling the varied life of the German people meet. Each office within the Reichsleitung of the NSDAP executed definite tasks assigned to it by the Fuehrer, or by the leader of the Party Chancellery (Chef der Parteikanzlei), who on the chart before you appears directly under the Fuehrer.

In 1945 the chief of the Party Chancellery, I should have said, if your Honors please, was Martin Bormann, the defendant in this proceeding, and before him and until his flight to England in 1941, the defendant Hess.

H0005-0073

It was the duty of the Reichsleitung to make certain that these tasks assigned to it by the Fuehrer were carried out with expedition and without interruption, in order that the will of the Fuehrer quickly and accurately was communicated to the lowest Party echelon, the lowliest Zelle or Block. The individual offices of the Reichsleitung had the mission to remain in constant and closest contact with the life of the people through the agency of the subdivisions of the component party organizations in the Gau, within the Kreis, or the Ort or the lower group. These leaders had been taught that the right to organize human beings accrued through the appreciation of the fact that a people must be educated idealogically; Weltanschaulich, the Germans call it, that is to say, according to the philosophy of National Socialism.

(Karr follows)